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ORDINANCE NO. 47-123

AN ORDINANCE OF THE CITY OF WICHITA, KANSAS, PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR AMENDMENT AND ASSIGNMENT OF LEASE AND CONSENT TO ASSIGNMENT OF LEASE IN CONNECTION WITH THE PROJECT FINANCED WITH THE CITY'S TAXABLE INDUSTRIAL REVENUE BONDS, SERIES IX-A, 2000 (DEAN & DELUCA, INC.), AND THE CITY'S SUBORDINATED TAXABLE INDUSTRIAL REVENUE BONDS, SERIES IX-B, 2000 (DEAN & DELUCA, INC.).

WHEREAS, the City of Wichita, Kansas (the "Issuer"), is authorized and empowered pursuant to the provisions of K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the "Act"), to acquire, construct, install and equip certain facilities (as defined in the Act) for the stated statutory purposes, to enter into lease and lease-purchase agreements with any person, firm or corporation for said projects, and to issue revenue bonds for the purpose of paying the cost of such facilities; and

WHEREAS, pursuant to the Act, the Governing Body of the Issuer passed Ordinance No. 44-826, authorizing the issuance of its Taxable Industrial Revenue Bonds, Series IX-A, 2000 (Dean & DeLuca, Inc.) (the "Series A, 2000 Bonds"), in the principal amount of \$2,760,000 and its Subordinated Taxable Industrial Revenue Bonds, Series IX-B, 2000 (Dean & DeLuca Inc.) (the "Series B, 2000 Bonds"), in the principal amount of \$660,724.38; and

WHEREAS, the Series IX-A, 2000 Bonds and the Series IX-B, 2000 Bonds are herein collectively referred to as the "Bonds";

WHEREAS, the Bonds were issued pursuant to a Trust Indenture dated as of December 1, 2000 (the "Indenture"), by and between the Issuer and Commerce Bank, N.A., Wichita, Kansas, as trustee (the "Trustee"), for the purpose of financing the acquisition of a site and the construction of an addition to an existing distribution facility in Wichita, Kansas (the "Project"); and

WHEREAS, in connection with the issuance of the Bonds, the Issuer, as lessor, entered into a Lease Agreement dated as of December 1, 2000 (the "Lease"), for the Project with Dean & DeLuca, Inc., a Delaware corporation duly qualified to do business in the State of Kansas (the "Tenant"), as lessee; and

WHEREAS, pursuant to the Assignment of Lease recorded in the office of the Register of Deeds, Sedgwick, County, Kansas, on December 28, 2000, as Document No. 1939658, in Book 2127, at Page 1975, the Issuer assigned substantially all of its rights, title and interest, obligations and duties under the Lease to the Trustee; and

WHEREAS, the Issuer has received a request from the Tenant to assign all of its rights, title and interest, obligations and duties under the Lease to Northridge Warehouse, LLC, a Kansas limited liability company (the "Assignee"); and

WHEREAS, the Tenant has advised that the Assignee will assume all of the Tenant's rights, title and interest, obligations and duties under the Lease; and

WHEREAS, pursuant to Article IX of the Lease, the Tenant may assign its interest in the Lease with the prior written consent of the Issuer; and

WHEREAS, the assignment of the Lease requires an amendment of Section 9.1 of the Lease; and

WHEREAS, Commerce Bank, N.A. is 100% owner (the "Series IX-A, 2000 Bondowner") of the outstanding Series IX-A, 2000 Bonds; and

WHEREAS, the Tenant is 100% owner (the "Series IX-B, 2000 Bondowner") of the outstanding Series IX-B, 2000 Bonds; and

WHEREAS, the Series IX-A, 2000 Bondowner, the Series IX-B, 2000 Bondowner, the Trustee and the Tenant have or will consent to the requested assignment and amendment of the Lease; and

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. Approval of the Documents. The Governing Body of the Issuer hereby deems it desirable and hereby approves and authorizes the proposed assignment and amendment of the Lease, contingent upon receipt of all necessary approvals and consents and the compliance with all requirements of the Indenture, the Lease and other Bond documents, and the Mayor or Vice Mayor is hereby authorized and directed to execute and deliver the Agreement for Amendment and Assignment of Lease and Consent to Assignment of Lease (the "Assignment"), and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance (copies of said documents shall be filed in the records of the Issuer) for and on behalf of and as the act and deed of the Issuer. The City Clerk or Deputy City Clerk is hereby authorized and directed to attest to and affix the seal of the Issuer to the Assignment and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 2. Further Authority. The Issuer shall, and the officials, agents and employees of the Issuer are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 3. Effective Date. This Ordinance shall take effect and be in full force and effect from and after its passage and approval by the Governing Body of the Issuer and its publication once in the official newspaper of the Issuer.

PASSED by the Governing Body of the City of Wichita, Kansas this 19th day of September, 2006.

CITY OF WICHITA, KANSAS

Carlos Mayans, Mayor

(SEAL)

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, City Attorney